

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42

U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only one hour that will prohibit entry within 250-yard radius of where the fireworks display will be conducted. It is categorically excluded from further review under paragraph L[60] of Appendix A, Table 1 of DHS Instruction Manual 023-01-001-01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034, 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T09-0576 to read as follows:

§ 165.T09-0576 Safety Zone; Maumee River; Toledo, OH.

(a) *Location.* The following area is a safety zone: All U.S. navigable waters of the Maumee River within a within a 250-yard radius of the fireworks launch site located at position 41°38'54" N 83°31'54" W. All geographic coordinates are North American Datum of 1983 (NAD 83).

(b) *Enforcement period.* This section will be enforced from 9:30 p.m. through 10:30 p.m. on September 3, 2021. The Captain of the Port Detroit, or a designated representative may suspend enforcement of the safety zone at any time.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Detroit, or his designated representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Detroit or his designated representative.

(3) The "designated representative" of the Captain of the Port Detroit is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port Detroit to act on their behalf. The designated representative of the Captain of the Port Detroit will be aboard either a Coast Guard or Coast Guard Auxiliary vessel. The Captain of the Port Detroit or a designated representative may be contacted via VHF Channel 16.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Detroit or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Detroit or a designated representative.

Dated: July 22, 2021.

Brad W. Kelly,
Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2021-16031 Filed 7-27-21; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF EDUCATION

34 CFR Parts 31 and 32

[Docket ID ED-2021-OFO-0083]

RIN 1880-AA90

Permissibility of Administrative Law Judges Presiding Over Salary Pre-Offset Hearings

AGENCY: Office of Finance and Operations (OFO), Department of Education.

ACTION: Final regulations.

SUMMARY: The Department of Education (Department) amends its regulations regarding salary pre-offset hearings to expressly permit administrative law judges (ALJs) to act as the presiding officers.

DATES: These final regulations are effective July 28, 2021.

FOR FURTHER INFORMATION CONTACT: Anthony Cummings, 550 12th Street SW, Room 10089, Potomac Center Plaza, Washington, DC 20202. Telephone:

(202) 245-7185. Email: Anthony.Cummings@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION: As explained more fully below, the Department is revising its regulations in 34 CFR parts 31 and 32 to permit ALJs to preside over salary pre-offset hearings.

Statute: Under 20 U.S.C. 1221e-3, the Secretary is vested with broad authority to make, promulgate, issue, rescind, and amend rules and regulations governing the manner and operation of, and governing the applicable programs administered by, the Department. This provision is mirrored in 20 U.S.C. 3474, providing the Secretary authority to prescribe such rules and regulations as the Secretary determines necessary or appropriate to administer and manage the functions of the Secretary or the Department. In particular, under 20 U.S.C. 1234(f)(1), the Secretary shall prescribe by regulation the rules for conducting proceedings within its Office of Administrative Law Judges (OALJ). Such rules must conform to the Administrative Procedure Act (APA) at 5 U.S.C. 554, 556, and 557.

Under 5 U.S.C. 5514(a)(1), the Secretary may collect debts owed to the United States by employees of the Federal Government. Such debts are commonly recoupment of overpayments made by the Department to an employee due to a miscalculation of the employee's level of pay or a failure of the Department to correctly calculate a deduction to the employee's pay. To collect these debts, the Secretary generally imposes deductions to the employee's pay in regular installments. This process of debt collection is referred to as administrative offset. 31 U.S.C. 3716.

Prior to implementing an administrative offset, an employee is entitled to, among other things, a minimum of 30 days' written notice, informing the employee of the nature and amount of the indebtedness and the agency's intention to initiate an administrative offset. 5 U.S.C. 5514(a)(2)(A). After receipt of the notice, the employee is entitled to request a hearing on the agency's determination concerning the existence or the amount of the debt or to challenge the terms of any nonvoluntary repayment schedule the agency intends to implement. 5 U.S.C. 5514(a)(2)(D).

A hearing conducted under the authority of 5 U.S.C. 5514(a)(2)(D) may

not be conducted by an individual under the supervision or control of the head of the agency, except that nothing in this sentence shall be construed to prohibit the appointment of an ALJ. 5 U.S.C. 5514(a)(2).

The Secretary is required to establish regulations to carry out the statutory provisions for administrative offsets described above. 5 U.S.C. 5514(b)(1); 31 U.S.C. 3716(b)(2).

Current Regulations: Under 34 CFR 31.7(a), a hearing conducted for a salary offset for a current or former Federal employee indebted to the United States under a program administered by the Secretary is conducted by a hearing official who is neither an employee of the Department nor otherwise under the supervision or control of the Secretary.

Under 34 CFR 32.5(d), a salary pre-offset hearing held to recover overpayments of pay or allowances paid to a current or former Department employee is conducted by a hearing official who is not an employee of the Department or under the supervision or control of the Secretary.

New Regulations: Revised §§ 31.7(a) and 32.5(d) expressly provide that ALJs are not prohibited from presiding over hearings for the collection of debts owed to the United States by current or former employees of the Federal Government.

Reasons: The Department employs ALJs within OALJ. Congress established OALJ to consider cases before the Department involving hearings for recovery of funds, withholding hearings, cease-and-desist hearings, and other proceedings designated by the Secretary. 20 U.S.C. 1234(a); 34 CFR 81.3. The Secretary appoints ALJs to OALJ in accordance with 5 U.S.C. 3105 and 20 U.S.C. 1234(b).

The statutory authority for salary pre-offset hearings prohibits individuals under the supervision or control of an agency head from presiding but specifically excepts ALJs from that prohibition. 5 U.S.C. 5514(a)(2). However, a review of the Department's regulations revealed a disconnect between the regulations and the statute. Sections 31.7(a) and 32.5(d) mirror the statutory prohibition on individuals under the supervision or control of the Secretary presiding over hearings, but they do not include the statute's exception, allowing ALJs to preside over such hearings.

The omission in §§ 31.7(a) and 32.5(d) of the exception for ALJs was likely due to a drafting oversight. This amendment of the regulations harmonizes the regulations with the express statutory exception that ALJs are not prohibited from presiding over pre-offset hearings involving collection of indebtedness to

the United States from Federal employees.

As contemplated in the statutory exception, the Department's ALJs are well-suited for the task of presiding over such hearings because they act with impartiality and independence. ALJs are subject to less supervision and control by the Secretary than ordinary Department employees. For example, pursuant to 5 CFR 930.206, ALJs may not be rated on their job performance and may not receive a monetary or honorary award or incentive. Similarly, pursuant to 5 U.S.C. 7521, ALJs may not be removed from their positions or have other specified actions taken against them except by the independent action of the Merit Systems Protection Board.

Therefore, the Department is revising its regulations to correct the drafting oversight and expressly permit ALJs to preside over salary pre-offset hearings.

Waiver of Proposed Rulemaking and Delayed Effective Date

Under the APA (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed regulations. These regulations only govern the procedures for conducting administrative offset hearings to which the parties are the Department and current or former employees. As such, these regulations make procedural changes only and do not establish substantive policy. The regulations are, therefore, rules of agency practice and procedure and exempt from notice and comment rulemaking under 5 U.S.C. 553(b)(A). Moreover, the APA provides that an agency is not required to conduct notice and comment rulemaking when the agency for good cause finds that notice and public comment thereon are impracticable, unnecessary, or contrary to the public interest. 5 U.S.C. 553(b)(B). Rulemaking is "unnecessary" when "the administrative rule is a routine determination, insignificant in nature and impact, and inconsequential to the industry and to the public." *Utility Solid Waste Activities Group v. EPA*, 236 F.3d 749, 755 (D.C. Cir. 2001), quoting *U.S. Department of Justice, Attorney General's Manual on the Administrative Procedure Act* 31 (1947) and *South Carolina v. Block*, 558 F. Supp. 1004, 1016 (D.S.C. 1983). Because we are amending these procedural regulations to align them more closely with the applicable statutory provision, under 5 U.S.C. 553(b)(B), the Secretary has determined that proposed regulations are unnecessary.

The APA generally requires that regulations be published at least 30 days before their effective date, unless the

agency has good cause to implement its regulations sooner (5 U.S.C. 553(d)(3)). As previously stated, because the final regulations merely reflect an applicable statutory provision and address agency procedure, there is good cause to waive the delayed effective date in the APA and make the final regulations effective upon publication.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f)(1) of Executive Order 12866.

We have also reviewed these regulations under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency —

(1) Propose or adopt regulations only on a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those

approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that these final regulations are consistent with the principles in Executive Order 13563. We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs associated with this regulatory action are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities. Because this regulatory action does not implicate any new process or other financial commitment or burden, this regulatory action will not create any new costs.

Regulatory Flexibility Act Certification

Because notice-and-comment rulemaking is not necessary for this procedural rule, the Regulatory Flexibility Act (96 Pub. L. 354, 5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act of 1995

The final regulations do not create any new information collection requirements.

Accessible Format: On request to the program contact person listed under **FOR**

FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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List of Subjects

34 CFR Part 31

Claims, Government employees, Grant programs—education, Loan programs—education, Student aid, Wages.

34 CFR Part 32

Claims, Government employees, Wages.

Denise L. Carter,

Acting Assistant Secretary for Finance and Operations.

For the reasons discussed in the preamble, the Secretary amends parts 31 and 32 of title 34 of the Code of Federal Regulations as follows:

PART 31—SALARY OFFSET FOR FEDERAL EMPLOYEES WHO ARE INDEBTED TO THE UNITED STATES UNDER PROGRAMS ADMINISTERED BY THE SECRETARY OF EDUCATION

■ 1. The authority citation for part 31 continues to read as follows:

Authority: 5 U.S.C. 5514; 31 U.S.C. 3716.

■ 2. Section 31.7 is amended by revising paragraph (a) to read as follows:

§ 31.7 Hearing procedures.

(a) *Independence of hearing official.* A hearing provided under this part is conducted by a hearing official who is not under the supervision or control of

the Secretary, except that this prohibition does not apply to the Department's administrative law judges.

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PART 32—SALARY OFFSET TO RECOVER OVERPAYMENTS OF PAY OR ALLOWANCES FROM DEPARTMENT OF EDUCATION EMPLOYEES

■ 3. The authority citation for part 32 continues to read as follows:

Authority: 5 U.S.C. 5514; 31 U.S.C. 3716.

■ 4. Section 32.5 is amended by revising paragraph (d) to read as follows:

§ 32.5 Pre-offset hearing—general.

* * * * *

(d) The hearing is conducted by a hearing official who is not under the supervision or control of the Secretary, except that this prohibition does not apply to the Department's administrative law judges.

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[FR Doc. 2021–15897 Filed 7–27–21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0222; FRL–8714–02–R9]

Air Plan Approval; California; Mojave Desert Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Mojave Desert Air Quality Management District (MDAQMD or “District”) portion of the State Implementation Plan (SIP). This revision concerns emissions of volatile organic compounds (VOCs) from wood products coating operations. We are approving a local rule that regulates these emission sources under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on August 27, 2021.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2021–0222. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Robert Schwartz, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 972–3286 or by email at schwartz.robert@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to the EPA.

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- I. Proposed Action
- II. Public Comments
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I. Proposed Action

On April 21, 2021 (86 FR 20643), the EPA proposed to approve the following rule into the California SIP.

Local Agency	Rule No.	Rule title	Amended	Submitted
MDAQMD	1114	Wood Products Coating Operations	08/24/2020	11/18/2020

We proposed to approve this rule because we determined that it complies with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments

The EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP. The August 24, 2020 version of Rule 1114 will replace the previously approved version of this rule in the SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR

51.5, the EPA is finalizing the incorporation by reference of the MDAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal

requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);